REMARKS

Claims 29-48 were presented for examination and were pending in this application. In a Final Office Action dated May 11, 2004, claims 29-48 were rejected. Applicants conducted an Examiner Interview on July 22, 2004, in which claim 1 and the primary reference (U.S. Patent Publication No. 20020133412 to Oliver et al. ("Oliver")) was discussed. The substance of the interview is incorporated within this Amendment and Response as required by MPEP § 713.04. Applicants thank Examiner for examination of the claims pending in this application as well as for the Examiner Interview. Examiner's comments are addressed through the claim amendments and the comments below.

Applicants herein amend claims 1, 36, and 43. No claims are canceled or added. The changes to the claims are believed not to introduce new matter, and their entry is respectfully requested. The claims have been amended to expedite the prosecution of the application in a manner consistent with the Patent Office Business Goals, 65 Fed. Reg. 54603 (Sept. 8, 2000). In making these amendments, Applicants have not and do not narrow the scope of the protection to which Applicants consider the claimed invention to be entitled and do not concede that the subject matter of such claims was in fact disclosed or taught by the cited prior art. Rather, Applicants reserve the right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

Based on the above Amendment and the following Remarks, Applicants respectfully request that Examiner reconsider all outstanding objections and rejections, and withdraw them.

Response to Rejection Under 35 USC 102(e)

In the 2nd paragraph of the Office Action, Examiner rejects claims 29-30, 36, 38, and 42-44 under 35 USC § 102(b) as allegedly being anticipated by Oliver. This rejection is now traversed.

As discussed with Examiner, claims 29, 36, and 43 have been amended to now explicitly recite what was previously inherent – namely, the independence of monitoring, e.g., by a detector device, with respect to resources in a network, e.g., a first and a second device. For example, claim 29 recites in part:

> monitoring, independent of the first device and the second device, a plurality of request signals for data between the first device and the second device in the network, at least one request signal including a user identification parameter; . . .; and
>
> in response to an operational failure within the detector device, allowing the plurality of request signals to pass uninterrupted between the first device and the second device.

Further, claim 36 recites in part:

> monitoring, independent from the resources, a data signal from a device on a network, the data signal including a request for a resource; . . .; and
>
> in response to an operational failure within the detector device, allowing the data signals to pass uninterrupted between the resources on the network.

In addition, claim 43 recites in part:

> a processing unit within a detector device coupled to the network between a first device and a second device, the detector device independent of the first device and the second device, the processing unit configured to execute instructions . . . .

In each instance of the independent claim Applicants now appropriately recite that monitoring within the network is accomplished independent of the resources within the network. For example, referring to the method of claim 29, monitoring "request signals for

data between the first device and the second device in the network" is done "independent of the first device and the second device." Moreover, as claim 29 also recites, the process also allows "the plurality of request signals to pass uninterrupted between the first device and the second device" if there is "an operational failure within the detector device."

The claimed invention beneficially provides for monitoring activity on a network without requiring a technological and business relationship between the resources that communicate on the network. For example, the claimed invention may be configurable in an Internet service provider ("ISP") environment to monitor traffic between a client and a server and still control access to both at a connectivity and application level. Further, because there is no technological and business relationship, failures of the process do not affect the network communications between the monitored devices. For example, in an ISP environment, the client and the server can continue communications between each other in the event of a monitoring or detection device failure within the ISP's network. Both examples above note the independent nature of the monitoring activity and the detection device with respect to two devices or resources on a network in communication with each other.

As discussed with Examiner, the claimed invention is neither disclosed nor suggested by Oliver. Oliver discloses a system in which monitoring software is located on a customer backend to collect data. Such approaches are conventional data monitoring approaches that require dependence between the monitor and an end node, for example, the monitor and a server, both at a technology and business relationship level. Specifically, Oliver discloses use of its product by content service providers:

> The parties involved in the Clickshare/TVS Service include: INFORMATION SELLERS/RESOURCE PROVIDERS--Operators of World Wide Web sites who wish to make money from the sale of information or software, or wish to control access to resources. These

> arc called Clickshare Publishing Members or Clickshare Resource Providers. Examples include: newspapers, magazines, specialty publications, new-media entrepreneurs, game vendors, software publishers, health-care providers, network or other service providers.

Oliver, ¶¶ 35, 36.

Turning next to the detector device in Oliver, as highlighted in a previous Response, it is illustrated as the CALS shown in Figure 2 and described in paragraph 39:

> CLICKSHARE SERVICE CORP.--Facilitating the authentication of Clickshare Users, and storing records of their access to web sites is the Clickshare Access and Logging Service (CALS). Operated by Clickshare Service Corp. or its licensees, CALS is a fault-tolerant network of one or many Internet servers which exchange real-time, encoded information with machines operated by information sellers and billing agents.

Id., ¶ 39. Both from a process and structural perspective, this CALS system is not located between a first device, i.e., the CMa end-user system, and a second device, i.e., the CSPa server system. *See Id.; See also, Id.,* ¶ 149, 306-310, 344, 347, 373 (location of structures and operation of system). Rather, the CALS system is located behind the server CSPa, *i.e.*, the back-end of the system. The reason the CALS system is on the back-end is because it controls access to the CSPa server in terms of whether or not to grant access to the end user-system Cma so Cma can establish a connection with the server CSPa. In particular, Oliver notes that:

> If the CM is found to be properly authorized, CSPa's TVS-enhanced server daemon employs a pre-established UDP connection to its CALSa to (a) Submit user-profile information to CALSa for storage in the CALSa dynamic session database; and (b) Direct CALSa to issue and return via UDP a globally unique session token. This token is also stored in the CALSa dynamic session database and is referenced to the related user-profile information also contained there.

Id., ¶ 344. This passage specifically discloses that the CALS system is on the back end of the CSPa server and not coupled between the CSPa and CM devices. Hence, not only does

Oliver fail to disclose a detector device coupled between a first device and a second device in a network for processing requests between them in a manner as claimed by Applicants, it also fails to disclose independence of the detector device from at least the second device. Thus, it also introduces a point of failure, unlike the claimed invention.

Therefore, based on the above Amendments and Remarks, Applicants respectfully submit that for at least these reasons claims 29, 36, 43, and their respective dependencies are patentably distinguishable over the cited reference. Therefore, Applicants respectfully request that Examiner reconsider the rejection of claims 29-30, 36, 38, and 42-44, and withdraw it.

Response to Rejection Under 35 USC 103(a)

In the 5th paragraph of the Office Action, Examiner rejects claims 31-32, 35, 37, 39-40, and 45-46 under 35 USC § 103(a) as allegedly being unpatentable in view of Oliver and U.S. Patent No. 6,272,535 to Iwamura ("Iwamura"). In addition, in the 6th paragraph of the Office Action, Examiner rejects claims 33, 34, 41, and 47-48 under 35 USC § 103(a) as allegedly being unpatentable in view of Oliver and U.S. Patent No. 5,917,822 to Lyles et al. ("Lyles"). Further, Examiner rejects claims 33, 34, 41, 47-48 under 35 USC § 103(a) as allegedly being unpatentable in view of Oliver and U.S. Patent No. 6,353,929 to Houston ("Houston"). These rejections are respectfully traversed.

Applicants begin by noting the arguments set forth above with respect to Oliver apply to these claims and are herein incorporated by reference. As for Iwamura, as noted in a previous Response, its disclosure fails to address the deficiencies of Oliver. Moreover, like Oliver, Iwamura is not independent of the devices it monitors. Specifically, Iwamura notes, "the accounting apparatus has a money input, by which a user can input an amount of money

into the apparatus." *Iwamura*, Abstract. That is, the system and process in Iwamura must have both a technological and business relationship with the user and cannot be independent in a manner as recited in Applicants' claimed invention.

Likewise, Lyles also fails to address the deficiencies of Oliver. Lyles discloses a system and method "executed by or in a head-end controller." Lyles, Abstract. As with Oliver and Iwamura, Lyles too requires a technological and business relationship an end node, here a head-end service provider, and cannot be independent in a manner as recited in Applicants' claimed invention.

Finally, Houston also fails to address the deficiencies of Oliver. Houston discloses a:

> cooperative electronic media measurement system [that] uses media handlers to obtain information from, or otherwise obtain information about, presented media objects, including identification tags, if present, for collection by research data collection agents and subsequent dispatch to a centralized media research controller.

Houston, Abstract. Similar to Oliver, Iwamura, and Lyles, Houston also requires a technological and business relationship with end nodes, here panel members and media handler hosts. *Id.*, FIG. 2. Thus, the monitoring process in Houston cannot be independent in a manner as recited in Applicants' claimed invention. Moreover, Houston also suffers from the deficiencies of introducing a point of failure with the media research controller unlike the claimed invention.

Thus, based on the above Amendments and Remarks, Applicants respectfully submit that for at least these reasons claims 31-32, 35, 37, 39-40, and 45-46 are also patentably distinguishable over the cited references, both alone and in combination. Therefore, Applicants respectfully request that Examiner reconsider the rejections, and withdraw them.

Conclusion

In sum, Applicants respectfully submit that claims 29 through 48, as presented herein, are patentably distinguishable over the cited references (including references cited, but not applied). Therefore, Applicants request reconsideration of the basis for the rejections to these claims and request allowance of them.

In addition, Applicants respectfully invite Examiner to contact Applicants' representative at the number provided below if Examiner believes it will help expedite furtherance of this application.

Respectfully Submitted,
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